

A U S T I N C I T Y C O U N C I L  
**AGENDA**

Thursday, July 27, 2006

 + [Back](#) [Print](#)**Zoning and Neighborhood Plan Amendments  
(Public Hearings and Possible Action)  
RECOMMENDATION FOR COUNCIL ACTION****ITEM No. 147**

**Subject:** C814-01-0096(RCT) - Prominent Pointe II Restrictive Covenant Termination - Conduct a public hearing and approve a restrictive covenant termination for property locally known as 5401, 5405, and 5505 Bluffstone Lane (Bull Creek Watershed). Zoning and Platting Commission Recommendation: To approve the restrictive covenant termination. Applicant: Spicewood Springs Associates and Prominent Northpoint, L.P. (Mark McAllister). Agent: Armbrust & Brown, L.L.P. (Amanda Morrow). City Staff: Sherri Sirwaitis, 974-3057.

**Additional Backup  
Material**

(click to open)

- ☐ [Staff Report](#)
- ☐ [Restrictive Covenant Termination](#)

**For More Information:**

## RESTRICTIVE COVENANT TERMINATION REVIEW SHEET

**CASE:** C814-01-0096(RCT)

**Z.A.P. DATE:** June 20, 2006

**ADDRESS:** 5401, 5405, and 5505 Bluffstone Lane

**OWNER/APPLICANT:** Spicewood Springs Associates and Prominent Northpoint, L.P.  
(Mark McAllister)

**AGENT:** Armbrust & Brown, L.L.P. (Amanda Morrow)

**ZONING:** PUD

**AREA:** 3.767 acres

### **SUMMARY STAFF RECOMMENDATION:**

The staff recommends the applicant's request to terminate the restrictive covenant to eliminate the restrictions placed upon the property in question.

### **ZONING AND PLATTING COMMISSION:**

6/20/06: Approved staff recommendation for restrictive covenant termination by consent (7-0, S. Hale, J. Gohil-absent); J. Martinez-1<sup>st</sup>, M. Hawthorne-2<sup>nd</sup>.

### **DEPARTMENT COMMENTS:**

The applicant is requesting to terminate the public restrictive covenant for this property (Attachment A) that limits the height of buildings constructed in the area at the northwestern tip of the Property to one-story; that prohibits gas station use on the Property; that states that once a surgery center use has been established on the property and then such use ceases for more than 90 days, then no 24-hour emergency clinic with ambulance access shall be permitted on the Property; which states that any emergency services uses will be limited to the medical office and surgery center; and that limits the height of buildings constructed in the area at the southeastern tip of Property to two stories.

The staff recommends the applicant's request to terminate the restrictive covenant because the intent of the covenant is no longer viable. The property in question is part of an application for the proposed Prominent Pointe II PUD. In the PUD request, the applicant is seeking to provide a unified office development on the site that will utilize existing and proposed office buildings. The applicant plans to develop a new office building paralleling the northwestern edge of the tract, along with a parking garage that will be constructed between the existing and new building. The proposed parking garage will provide parking for the overall development and will allow for a majority of the existing surface parking to be removed. The applicant proposes to place new improvements on the property in a way to minimize adverse impacts to the natural character of the property and to screen new structures from the Hill Country Roadway and from the existing neighborhood to the east (along Bluffstone Lane). The applicant is requesting some environmental modifications to the Land Development Code through this application that they have proposed to offset by providing an overall decrease in impervious cover for the site by approximately 0.6 acres, providing current water quality controls, dedicating a 7.5 acres conservation/preserve area to the City, removing much of the existing development in the CWQZ and WQTZ and Hill Country Roadway Corridor, restoring many previously disturbed areas with to a natural state with tree planting and revegetation, and by providing a 50-foot setback for the rimrock CEF which is currently unprotected. In addition, the applicant has

asked for Hill Country Roadway Bonuses through the PUD application to increase the allowable height in a moderate intensity zone of the Hill Country Roadway corridor to reduce overall impervious cover for the project.

The staff supports the proposed PUD request because it will allow the applicant to create a superior development on a tract of land that has topographical constraints. The proposed PUD will the reduce impervious cover amounts that were approved through the Prominent Point Tract and Bluffstone PUD developments by approximately 19% by removing surface parking area and constructing a parking garage on the site. The proposed development places the new building and parking garage along the western boundary of the property to allow a natural area to provide screening of structures on the site from Bluffstone Lane. In the new PUD, the applicant will provide water quality control meeting the current water quality requirements for water quality and detention. The Prominent Point II PUD development will remove parking that is currently located within the 100-foot Hill Country Roadway buffer and will restore this area to its natural condition. In addition, the developer will include the 40% buffer zone for the entire combined development and will dedicate the 7.5 acres Great Hill Phase "B" Tract as preserve/conservation area. The proposed PUD will also reduce the number of approved access points approved for the Prominent Point Tract and Bluffstone Tracts. Currently, there is one existing access driveway onto Loop 360 (Capital of Texas Highway) and one existing access driveway onto Bluffstone Lane. The approved Bluffstone PUD permitted two additional drives onto Bluffstone Lane. However, in this rezoning the applicant is requesting only one additional driveway access onto Bluffstone Lane. Finally, in the proposed PUD the applicant will provide trail access across the north and south edges of the site to permit the surrounding neighborhoods to have access to the Bull Creek railways through the project. The applicant proposes to improve the dead end area of Bluffstone Lane by providing curb and gutter, as well as large boulders or other obstructions to prevent unauthorized access and dumping that currently serves as a detraction for the neighborhood.

Therefore, the staff recommends the termination of this public restrictive covenant to allow the applicant to clear the title to the property in question. The conditions of the restrictive covenant under consideration will no longer be viable if the proposed rezoning for this property to PUD is approved by the Zoning and Platting Commission and City Council. The Prominent Point II PUD development that is proposed for this tract of land will provide superior use of the property in question than what was limited through the restrictive covenant in question.

The applicant agrees with the staff's recommendation.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	PUD (Bluffstone PUD)	Undeveloped
<i>North</i>	SF-2-CO, LR, LO	Single-Family Residences, Undeveloped Tract, Professional/Medical Office uses
<i>South</i>	LO, GR	Office Uses
<i>East</i>	LO, GR-CO	Professional/Medical Office uses, Undeveloped Tract
<i>West</i>	I-RR	Bull Creek Watershed

**AREA STUDY:** N/A

**TIA:** N/A

**WATERSHED:** Bull Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR: N/A**

**HILL COUNTRY ROADWAY: Yes**

**NEIGHBORHOOD ORGANIZATIONS:**

46 - North Oaks Neighborhood Association  
53 - Northwest Austin Civic Association  
157 - Courtyard Homeowner Association  
184 - Bull Creek Homeowners Association  
328 - Yaupon Bluffs Community Association  
413 - Austin Great Hills Homeowners Association, Inc.  
426 - River Place Residential Community Association, Inc.  
439 - Concerned Citizens For P & B of FM 2222  
475 - Bull Creek Foundation  
511 - Austin Neighborhoods Council  
742 - Austin Independent School District  
747 - Great Hills Homeowner Association  
965 - Old Spicewood Springs Road Neighborhood Association

**CASE HISTORIES:**

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C814-01-0096	GR, LR to PUD	12/04/01: Approved staff's recommendation of PUD zoning by consent (8-0, M. Casias-absent)	1/17/02: Approved PUD on 3 readings (6-0, Wynn out of room)
C14-97-0100	SF-2 to GR	Approved GR-CO allowing only certain uses (7-0)	Approved GR-CO & RR for floodplain w/conditions (7-0), subject to 25% maximum impervious cover; 1 <sup>st</sup> reading  Approved GR-CO & RR w/ conditions (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings
C14-97-0098	SF-6 to SF-2	Approved staff rec. of SF-2 (7-0)	Approved SF-2-CO w/ conditions (7-0), subject to 25% maximum impervious cover; 1 <sup>st</sup> reading  Approved SF-2-CO w/cond. (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings
C14r-86-045	TR1: SF-2, DR to LR TR2: SF-2, DR to GR	Approved LR (TR1) and GR (TR2), subject to conditions (9-0)	Approved LR, GR (6-0); 1 <sup>st</sup> reading  Approved LR, GR; 2 <sup>nd</sup> /3 <sup>rd</sup> readings
C14r-86-044	SF-2, DR to LO	Approved LO (7-2)	Approved LO

**RELATED CASES:** C814-01-0096 - Zoning Case (Bluffstone PUD)

C14r-86-045 - Zoning Site Plan

**ABUTTING STREETS:**

NAME	ROW	PAVEMENT	CLASSIFICATION	DAILY TRAFFIC
Bluffstone Drive	90'	Varies	Collector	N/A

**CITY COUNCIL DATE:** July 27, 2006

**ACTION:**

**ORDINANCE READINGS:** 1<sup>st</sup>

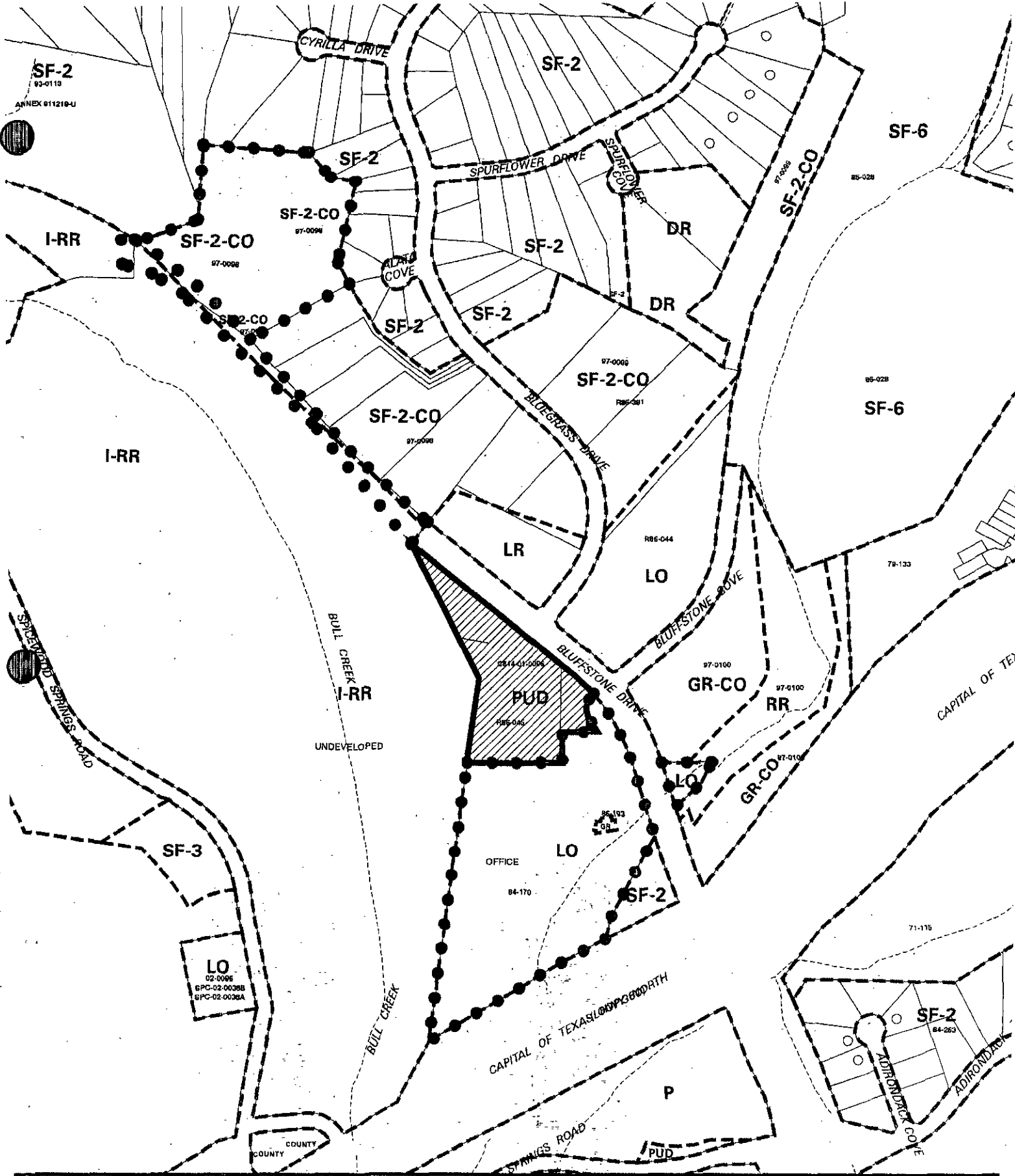
2<sup>nd</sup>

3<sup>rd</sup>

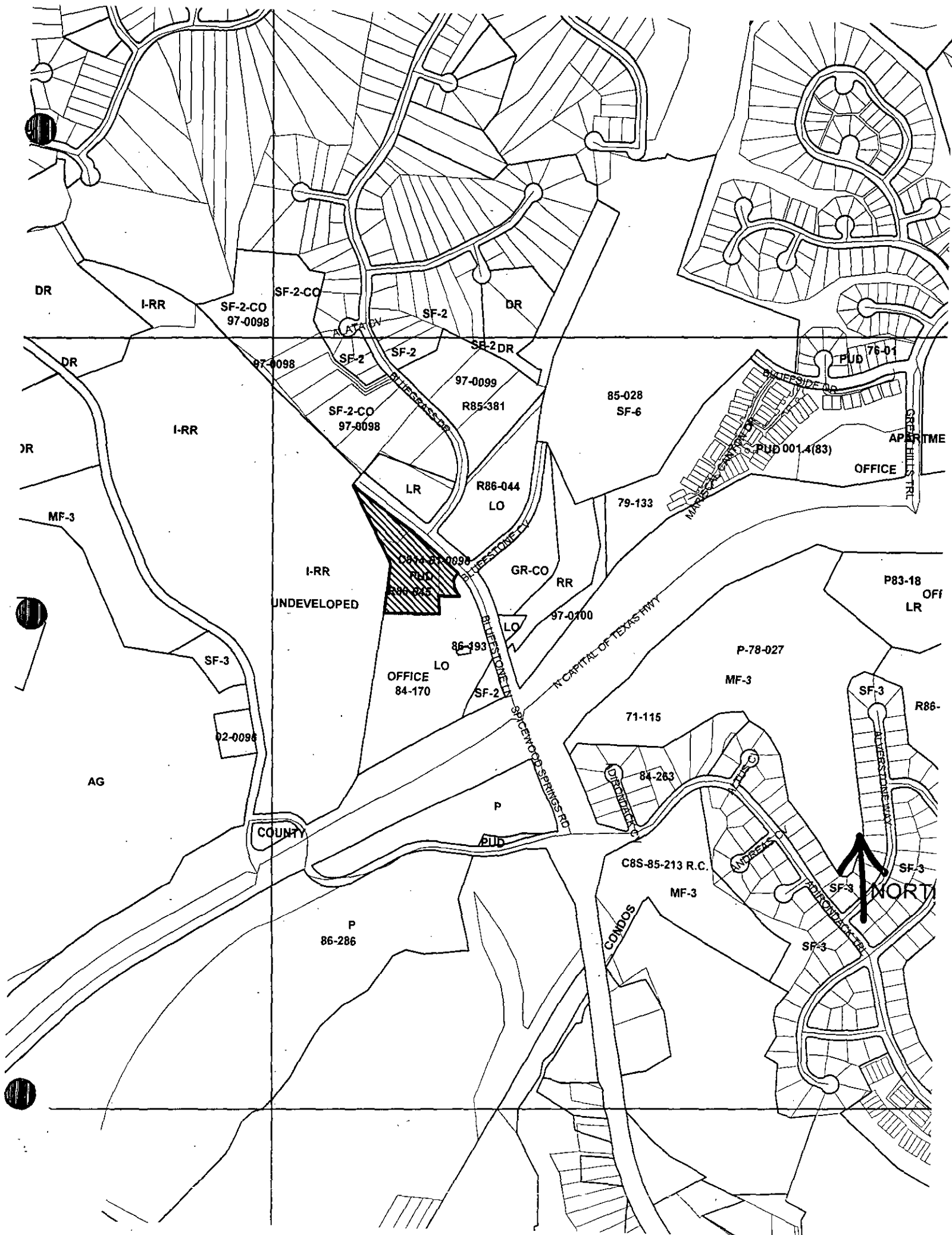
**ORDINANCE NUMBER:**

**CASE MANAGER:** Sherri Sirwaitis

**PHONE:** 974-3057,  
[sherri.sirwaitis@ci.austin.tx.us](mailto:sherri.sirwaitis@ci.austin.tx.us)



	SUBJECT TRACT		<b>PLANNED UNIT DEVELOPMENT</b> <b>CASE #: C814-01-0096(RCT)</b> ADDRESS: 5401 - 5505 BLUFFSTONE SUBJECT AREA (acres): 3.767		DATE: 06-04 INTLS: SM	CITY GRID REFERENCE NUMBER H32
	PENDING CASE					
	ZONING BOUNDARY					
	CASE MGR: S.SIRWAITIS					







- 10. Restrictive Covenant Termination:** **C814-01-0096(RCT) - Prominent Pointe II**  
Location: 5401-5505 Bluffstone Lane, Bull Creek Watershed  
Owner/Applicant: Spicewood Springs Associates and Prominent Northpoint, L.P. (Mark McAllister)  
Agent: Armbrust & Brown, L.L.P. (Amanda Morrow)  
Request: Restrictive Covenant Termination  
Staff Rec.: **Recommended**  
Staff: Sherri Sirwaitis, 974-3057, sherri.sirwaitis@ci.austin.tx.us  
Neighborhood Planning & Zoning Department

***APPROVED STAFF'S RECOMMENDATION FOR RESTRICTIVE COVENANT TERMINATION; BY CONSENT.***

***[J.MARTINEZ, M.HAWTHORNE 2<sup>ND</sup>] (7-0) J.GOHIL, S.HALE - ABSENT***

- 11. Restrictive Covenant Termination:** **C14R-86-193(RCT) - Prominent Pointe II**  
Location: 8310 North Capital of Texas Highway, Bull Creek Watershed  
Owner/Applicant: Spicewood Springs Associates and Prominent Northpoint, L.P. (Mark McAllister)  
Agent: Armbrust & Brown, L.L.P. (Amanda Morrow)  
Request: Restrictive Covenant Termination  
Staff Rec.: **Recommended**  
Staff: Sherri Sirwaitis, 974-3057, sherri.sirwaitis@ci.austin.tx.us  
Neighborhood Planning & Zoning Department

***APPROVED STAFF'S RECOMMENDATION FOR RESTRICTIVE COVENANT TERMINATION; BY CONSENT.***

***[J.MARTINEZ, M.HAWTHORNE 2<sup>ND</sup>] (7-0) J.GOHIL, S.HALE - ABSENT***

- 12. Rezoning:** **C14-06-0070 - Lakes at Northtown Tract 1**  
Location: East Howard Lane, Harris Branch Watershed  
Owner/Applicant: NWC Howard and I-35, Ltd. (John Needham)  
Agent: Longaro & Clarke, L.P. (Alex Clarke)  
Request: LI-CO to SF-2  
Staff Rec.: **Not Recommended**  
Staff: Sherri Sirwaitis, 974-3057, sherri.sirwaitis@ci.austin.tx.us  
Neighborhood Planning & Zoning Department

***PULLED, DUPLICATE OF #8.***

**ARMBRUST & BROWN, L.L.P.**

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300  
AUSTIN, TEXAS 78701-2744  
512-435-2300

FACSIMILE 512-435-2360

AMANDA L. MORROW  
(512)435-2368  
AMORROW@ABUASTIN.COM

March 31, 2006

Joe Pantalion  
Director  
Watershed Protection & Development Review  
505 Barton Springs Road  
Austin, Texas 78701

Re: 5401, 5405, 5505 Bluffstone Lane Restrictive Covenant Termination for property legally described as Lots 1-3 of the Great Hills Village III subdivision, Travis County, according to Plat Book 87, Page 111B-C ("Restrictive Covenant Termination") application

Dear Mr. Pantalion:

This firm represents and I am writing this letter on behalf of the Applicant in the above-referenced application. It is my client's intent to terminate the existing restrictive covenant that governs the above mentioned property. Currently, a rezoning application is on file with the City of Austin under case number C814-06-0054. The purpose of the zoning application is to rezone the properties at 5401, 5405, 5505 Bluffstone Lane and 8310 North Capitol of Texas Highway from PUD/LO/GR/ to PUD to allow a project which will cover all of the properties. The PUD proposes to combine the existing office development with a proposed office building and parking garage to provide a single unified development which will be superior to existing development regulations.

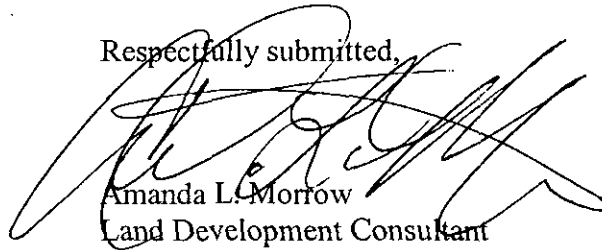
A copy of the existing restrictive covenant recorded in Document 2002035918 has been attached for your review. The existing restrictive covenant was prepared in conjunction with previous zoning case C814-01-0096, which limited the height to one and two story buildings. By terminating the restrictive covenant, it will allow the flexibility to increase the overall height of the development.

**ARMBRUST & BROWN, L.L.P.**

Page 2

Should you have any questions, comments or concerns please do not hesitate to contact me at (512) 435-2368.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'A. Morrow', is written over the typed name and title.

Amanda L. Morrow  
Land Development Consultant

Attachment

cc: Sherri Sirwaitis

**RESTRICTIVE COVENANTS**

STATE OF TEXAS           §  
                                  §  
COUNTY OF TRAVIS      §

WHEREAS, the undersigned (collectively, "Owner") is the owner of the approximately 3.767-acre tract of land situated in the City of Austin, Travis County, Texas, which is the subject of City of Austin Zoning Change Case No. C814-01-0096, and being more particularly described as Lots 1-3, Great Hills Village III, a subdivision in Austin, Texas, according to the map or plat recorded in Book 87, Page 111 B-C, Plat Records, Travis County, Texas (collectively, the "Property"); and

WHEREAS, Owner and/or Owner's agents, assignees, or transferees, currently intend to develop a medical office and surgery center project (the "Project") on the Property; and

WHEREAS, Owner wants to impress the Property with certain covenants and restrictions that will run with the land.

NOW, THEREFORE, Owner, for good and valuable consideration, hereby agrees that the Property should be impressed with certain restrictions, such restrictions to be deemed and considered as a covenant running with the land, and which shall be binding on it, its successors and assigns, as follows, to wit:

1. Any building constructed in the Building No.2 Envelope Area, as shown on the Land Use Plan for the Property attached hereto as Exhibit A, which area is located at the northwestern tip of the Property, shall not exceed one story above ground.
2. No gas station use will be permitted on the Property.
3. Once a surgery center use has been established on the Property, and then such use ceases for more than ninety (90) days, no 24-hour emergency clinic use with ambulance access will be permitted on the Property.
4. Any emergency services use available on the Property will be limited to no more than that level of such services as are necessary for acquiring and maintaining the licenses necessary for operation of a medical office and surgery center.
5. Any building constructed in the Building No.1 Envelope Area, as shown on the Land Use Plan for the Property attached hereto as Exhibit A, which area is located at the southeastern tip of the Property, shall not exceed two stories above ground.

MAR 29 2006

I, Dana DeBeauvoir, County Clerk, Travis County, Texas, do hereby certify that this is a true and correct copy as same appears of record in my office. Witness my hand and seal of office on



Dana DeBeauvoir, County Clerk  
By Deputy: *[Signature]*

MACHADO

These restrictive covenants may be modified, amended, or terminated only by joint action of (i) the owner(s) of at least eighty-five percent (85%) of the Property at the time of such modification, amendment or termination, and (ii) a majority of the members of the Austin City Council at the time of such modification, amendment or termination.

EXECUTED to be effective on Feb 21, 2002.

**OWNER:**

**The Jomar Joseph Partners, Ltd.,**  
a Texas limited partnership

By:  
its general partner

By: Marjorie Joseph  
Name: MARJORIE JOSEPH  
Title: General Partner

STATE OF TEXAS           §  
                                     §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on this the 21 day of February, 2002, by Marjorie Joseph of Jomar Joseph Partners, Ltd., Texas ~~limited partnership~~ the general partner of The Jomar Joseph Partners, Ltd., a Texas limited partnership, on behalf of the partnership.



Billie A. Martin  
Notary Public, State of Texas

MAR 29 2006

I, Dana DeBeauvoir, County Clerk, Travis County, Texas, do hereby certify that this is a true and correct copy as same appears of record in my office. Witness my hand and seal of office on




Dana DeBeauvoir, County Clerk

By Deputy

[Signature] MACHADO

**Spicewood Springs Joint Venture,**  
a Texas joint venture

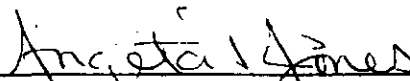
By: Sage Land Company  
a Texas corporation

By:   
Name: Peter A. Lamy  
Title: Chairman  
Date: 01/30/02

STATE OF TEXAS                   §  
   §  
COUNTY OF TRAVIS           §

This instrument was acknowledged before me on this the 30 day of January, 2002, by Peter A. Lamy, Chairman of Sage Land Company, a Texas corporation, a joint venturer of Spicewood Springs Joint Venture, a Texas joint venture, on behalf of the joint venture.



  
Notary Public, State of Texas

After Recording Please Return to:  
Annette McLaurin  
Drenner Stuart Wolff et al  
301 Congress Ave., Ste. 2100  
Austin, TX 78701

MAR 29 2006

I, Dana DeBeauvoir, County Clerk, Travis County, Texas, do hereby certify that this is a true and correct copy as same appears of record in my office. Witness my hand and seal of office on



Dana DeBeauvoir, County Clerk

By Deputy

 VACHADO

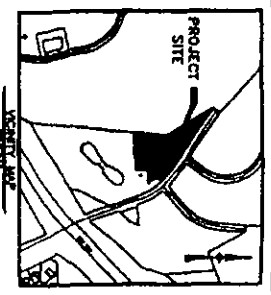
A



CRIST MALL PHOTO 'B'  
BLK A 112430 ACRES  
DOC 200000315  
TCLR  
FORWARD LR  
UNCLVCLDQDQD

CONCRETE WALLS PHASE "B"  
BAY 8 11/10/1971 ACROSS  
DOC. 1000000115  
1 CBA.  
Rounded up  
undergarments

AUSTIN 260 ASSOCIATES  
9 THIRN ACRES  
VOL. 10094 AC. 23  
T.C. 26A  
ZONED CR-20  
UNDEVELOPED



MAR 29 2006

I, Dana DeBeauvoir, County Clerk, Travis County, Texas, do hereby certify that this is a true and correct copy as same appears of record in my office. Witness my hand and seal of office on

Dana DeBeauvoir, County Clerk

By Deputy  
J. M. CHADO



Date Issued		Date Paid		Date	
No.	Amount	No.	Amount	No.	Amount
1	100.00	1	100.00	1	100.00
2	200.00	2	200.00	2	200.00
3	300.00	3	300.00	3	300.00
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10	1000.00	10	1000.00	10	1000.00

[illegible]

Stain compound	Age (yr)	Age (yr)
0-100	1000	1.77
10-100	10	0.89
100-1000	10	0.89
1000-	10	1.05

NAME	ADDRESS	DATE	REMARKS
Mr. J. H. Smith	123 Main St.	10/15/1917	Received \$10.00
Mr. W. B. Jones	456 Elm St.	10/15/1917	Received \$5.00
Mr. C. D. Brown	789 Oak St.	10/15/1917	Received \$2.50
Mr. E. F. Green	101 Pine St.	10/15/1917	Received \$1.00
Mr. G. H. White	234 Cedar St.	10/15/1917	Received \$0.50
Mr. I. J. Black	567 Birch St.	10/15/1917	Received \$0.25
Mr. K. L. Gray	890 Spruce St.	10/15/1917	Received \$0.10
Mr. M. N. Hall	1122 Ash St.	10/15/1917	Received \$0.05
Mr. O. P. King	1444 Hickory St.	10/15/1917	Received \$0.02
Mr. Q. R. Lee	1777 Walnut St.	10/15/1917	Received \$0.01
Mr. S. T. Young	2000 Chestnut St.	10/15/1917	Received \$0.00
Mr. U. V. Wright	2333 Sycamore St.	10/15/1917	Received \$0.00
Mr. W. X. Scott	2666 Poplar St.	10/15/1917	Received \$0.00
Mr. Y. Z. Adams	2999 Magnolia St.	10/15/1917	Received \$0.00
Mr. A. B. Baker	3333 Dogwood St.	10/15/1917	Received \$0.00
Mr. C. D. Carter	3666 Redwood St.	10/15/1917	Received \$0.00
Mr. E. F. Evans	3999 Cypress St.	10/15/1917	Received \$0.00
Mr. G. H. Fisher	4333 Juniper St.	10/15/1917	Received \$0.00
Mr. I. J. Gibson	4666 Fir St.	10/15/1917	Received \$0.00
Mr. K. L. Hamilton	4999 Hemlock St.	10/15/1917	Received \$0.00
Mr. M. N. Hill	5333 Larch St.	10/15/1917	Received \$0.00
Mr. O. P. Howell	5666 Locust St.	10/15/1917	Received \$0.00
Mr. Q. R. Ingram	5999 Mulberry St.	10/15/1917	Received \$0.00
Mr. S. T. Jackson	6333 Nettle St.	10/15/1917	Received \$0.00
Mr. U. V. Keller	6666 Olive St.	10/15/1917	Received \$0.00
Mr. W. X. Lane	6999 Peach St.	10/15/1917	Received \$0.00
Mr. Y. Z. Little	7333 Plum St.	10/15/1917	Received \$0.00
Mr. A. B. Long	7666 Rose St.	10/15/1917	Received \$0.00
Mr. C. D. Moore	7999 Strawberry St.	10/15/1917	Received \$0.00
Mr. E. F. Myers	8333 Tangerine St.	10/15/1917	Received \$0.00
Mr. G. H. Nichols	8666 Vanilla St.	10/15/1917	Received \$0.00
Mr. I. J. Orr	8999 Watermelon St.	10/15/1917	Received \$0.00
Mr. K. L. Parker	9333 Zucchini St.	10/15/1917	Received \$0.00
Mr. M. N. Quinn	9666 Artichoke St.	10/15/1917	Received \$0.00
Mr. O. P. Roberts	9999 Asparagus St.	10/15/1917	Received \$0.00
Mr. Q. R. Scott	10333 Bean St.	10/15/1917	Received \$0.00
Mr. S. T. Taylor	10666 Corn St.	10/15/1917	Received \$0.00
Mr. U. V. Walker	10999 Eggplant St.	10/15/1917	Received \$0.00
Mr. W. X. Young	11333 Garlic St.	10/15/1917	Received \$0.00
Mr. Y. Z. Ziegler	11666 Onion St.	10/15/1917	Received \$0.00
Mr. A. B. Baker	11999 Potato St.	10/15/1917	Received \$0.00

CB14-01-0096

[illegible]

Turner College of Braden Inc

LAND USE PLAN



**FILED AND RECORDED**  
OFFICIAL PUBLIC RECORDS

*Dana DeBeauvoir*

02-28-2002 11:15 AM 2002035918  
FERGUSONL \$17.00  
DANA DEBEAUVOIR, COUNTY CLERK  
TRAVIS COUNTY, TEXAS

**Recorders Memorandum**-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

MAR 29 2006

I, Dana DeBeauvoir, County Clerk, Travis County, Texas, do hereby certify that this is a true and correct copy as same appears of record in my office. Witness my hand and seal of office on



Dana DeBeauvoir, County Clerk  
By Deputy

*[Signature]*  
MACHADO



**TERMINATION OF RESTRICTIVE COVENANT**  
**FOR**  
**ZONING CASE: C814-01-0096**

OWNER: Prominent Northpoint, L.P., a Texas limited partnership

ADDRESS: 901 Mopac Expressway South, Bldg. One, Suite 200, Austin, Texas 78746

CITY: The City of Austin, a home-rule city, municipal corporation and political subdivision of the State of Texas, in Travis County, Texas.

CITY COUNCIL: The City Council of the City of Austin.

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

WHEREAS, The Jomar Joseph Partners, Ltd., a Texas limited partnership and Spicewood Springs Joint Venture, a Texas joint venture, as owners of all that certain property described in Zoning Case No. C814-01-0096, consisting of approximately 3.767 acres of land out of Great Hills Village III Subdivision, Travis County (the "Property"), as more particularly described in the restrictive covenant recorded in the Real Property Records of Travis County, Texas, in Document No. 2002035918 (the "Restrictive Covenant"), imposed certain restrictions and covenants on the Property by the Restrictive Covenant of record; and,

WHEREAS, the Restrictive Covenant provided that the covenant could be modified, amended, or terminated by joint action of both a majority of the members of the City Council and the Owner of the Property at the time of such modification, amendment or termination; and,

WHEREAS, Prominent Northpoint, L.P., a Texas limited partnership, as sole and current owner of the Property, now desires to terminate the Restrictive Covenant; and,

WHEREAS, the City Council and the Owner, agree the Restrictive Covenant should be terminated;

NOW, THEREFORE, for and in consideration of the premises and mutual promises, covenants, and agreements set forth in this covenant, the City of Austin and the Owner agree as follows:

1. The Restrictive Covenant is terminated by this termination. Each and every one of the terms, conditions, and provisions of the Restrictive Covenant, as set forth in the Restrictive Covenant, shall have no force or effect on and after the effective date of this termination.
2. The City Manager, or her designee, shall execute, on behalf of the City, this Termination of Restrictive Covenant for Zoning Case No. C814-01-0096 (the "Termination of Restrictive Covenant") as authorized by the City Council of the City of Austin. This Termination of Restrictive Covenant shall be filed in the Official Public Records of Travis County, Texas, which will terminate the document of record in Document No. 2002035918, Official Public Records, Travis County, Texas.

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

**OWNER:**

**Prominent Northpoint, L.P.,  
a Texas limited partnership**

By: Aspen Growth Properties, Inc.,  
a Texas corporation,  
its General Partner

By: \_\_\_\_\_  
Mark McAllister,  
President

**CITY OF AUSTIN:**

By: \_\_\_\_\_  
Laura J. Huffman,  
Assistant City Manager  
City of Austin

**THE STATE OF TEXAS           §**

**COUNTY OF TRAVIS           §**

This instrument was acknowledged before me on this the \_\_\_\_ day of \_\_\_\_\_, 2006, by Mark McAllister, President of Aspen Growth Properties, Inc., a Texas corporation, general partner of Prominent Northpoint, L.P., a Texas limited partnership, on behalf of the corporation and limited partnership.

\_\_\_\_\_  
Notary Public, State of Texas

**THE STATE OF TEXAS           §**

**COUNTY OF TRAVIS           §**

This instrument was acknowledged before me on this the \_\_\_\_ day of \_\_\_\_\_, 2006, by Laura J. Huffman, as Assistant City Manager of the City of Austin, a municipal corporation, on behalf of the municipal corporation.

\_\_\_\_\_  
Notary Public, State of Texas

**After Recording, Please Return to:**  
**City of Austin**  
**Department of Law**  
**P. O. Box 1088**  
**Austin, Texas 78767**  
**Attention: Diana Minter, Paralegal**